

REMARKS

Entry of this Amendment, reconsideration and withdrawal of all grounds of rejection, and allowance of the pending claims are respectfully requested in light of the remarks made herein. Claims 1-3, 9-11 and 17-19 are pending.

Claims 1-3, 9-11 and 17-19 stand rejected under 35 U.S.C 103(a) as being unpatentable over Vanechanos, Jr. (U.S. Patent No. 5,884,309) in view of Apte et al. (U.S. Patent No. 6,654,739) .

Applicant respectfully disagrees with, and explicitly traverses, the examiner's reason for rejecting the claims. A claimed invention is *prima facie* obvious when three basic criteria are met. First, there must be some suggestion or motivation, either in the reference themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the teachings therein. Second, there must be a reasonable expectation of success. And, third, the prior art reference or combined references must teach or suggest all the claim limitations.

Claim 1 recites: a method for generating a recommendation of a program, said method comprising: receiving a first program record corresponding to a first program, wherein the first program record includes at least one key field; retrieving a plurality of program records from a database, wherein at least one of the program records includes at

least one key field; converting each key field of the first program record into a feature value; determining a second program record of the plurality of program records that qualifies as a nearest neighbor of the first program record using the feature value, the key fields of the plurality of program records and a distance measurement method; and generating a recommendation of the first program based on the second program record. Independent claim 2-3, 9-11 and 17-19 recite similar limitations.

Vanechanos teaches a system in which Internet Web server software includes a parameter-driven search engine that generates HTML documents reflecting the search results.

As admitted by the examiner, Vanechanos fails to disclose a "...records that qualifies as a nearest neighbor of the first program record, a distance measurement method."

Still further, Vanechanos fails to show, teach or imply the limitations of determining a second program record of the plurality of program records that qualifies as a nearest neighbor of the first program record using the feature value, the key fields of the plurality of program records and a distance measurement method; and generating a recommendation of the first program based on the second program record. The examiner further refers to col. 7, line 27 through col. 9, line 18 to show these limitations. Applicants respectfully disagree. In these sections Vanechanos teaches only a parameter-driven search engine that generates HTML documents reflecting the search results. Thus, Vanechanos fails to recommend a first program based on the second program record, and only provides the search results according to the parameters input therein.

Apte teaches a procedure for clustering documents computing a similarity score

representing the k most similar documents for each document in the collection, and grouping the documents into clusters using the similarly scores. However, Apte also fails to recommend a first program based on the second program record.

Neither Vanechanos nor Apte, individually or in combination, discloses or suggests all the elements of the present invention. Further, even if the devices of Vanechanos and Apte were combined, as suggested by the examiner, the combined device would not disclose all the elements of the invention recited in claim 1 and would not perform the steps disclosed. The combination of Vanechanos and Apte would not determine a second program record of the plurality of program records that qualifies as a nearest neighbor of the first program record using the feature value, the key fields of the plurality of program records and a distance measurement method; and generate a recommendation of the first program based on the second program record.

Having shown that the combined device resulting from the teachings of the cited references does not include all the elements of the present invention, applicant submits that the reasons for the examiner's rejections of the claims have been overcome and can no longer be sustained. Applicant respectfully requests reconsideration, withdrawal of the rejection and allowance of the claims.

In the matter of obviousness there is a great emphasis placed on "the importance of the motivation to combine." For example, the court in Yamanouchi Pharmaceutical Co. v. Danbury Pharmacal, Inc. 231 F. 3d. 1339, 56 USPQ2d. 1641, 1644 (Fed. Cir. 2000) found

that:

an examiner ... may often find every element of a claimed invention in the prior art. If identification of each claimed element of the prior art was sufficient to negate patentability, very few patents would ever issue. Furthermore rejecting patents solely by finding prior art corollaries for the claimed elements would permit an examiner ... to use the claimed invention itself as a blueprint for piecing together elements in the prior art to defeat the patentability of the claimed invention ... To counter this potential weakness in the obviousness construct, the suggestion to combine requirements stands as a critical safeguard against hindsight analysis and rote application of the legal test for obviousness. *id.* quoting *In re Rouffet*, 149 F.3d 1350, 1357-58, 47 USPQ 2d 1453, 1457 (Fed. Cir. 1998)

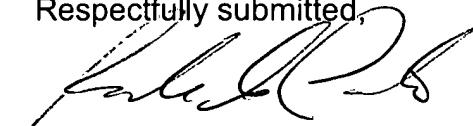
In this case, applicant believes that with regard to the referred-to claims, the examiner has impermissibly incorporated the teachings of the present invention in the cited reference to reject the claims. Accordingly, applicant submits that the reasons for the examiner's rejections of the claims have been overcome and the rejection can no longer be sustained. Applicant respectfully requests reconsideration, withdrawal of the rejection and allowance of the claims.

For at least the above cited reasons, Applicant submits that independent claims 1-3, 9-11 and 17-19 are patentable over Chapman and Dobson.

The other claims in this application are dependent upon the independent claims discussed above and are therefore believed patentable once the independent claims are allowed.

The applicants submit that the claims, as they now stand, fully satisfy the requirements of 35 U.S.C. 103. In view of the foregoing amendments and remarks, favorable reconsideration and early passage to issue of the present application are respectfully solicited.

Respectfully submitted,



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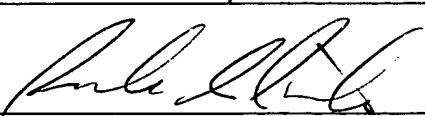
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